IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 15937 of 2005

Between:

Smt.A.V.Anuradha, w/o.B.Apparao,

R/o.PBR Estates, C-406, Padma Colony,

Nallakunta, Hyderabad.

..... PETITIONER

AND

1 Ex.Officio Secretary to Government, Consumer Affairs

Food and Civil Supplies (CS.II) Department, New Block,
Secretariat, Hyderabad.

2 The Registrar of A.P.State Consumer Disputes Redressal Commission,
Eruvaka Buildings, Khairatabad, Hyderabad.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ declaring the action of the respondents in proposing to appoint/filling up vacancies to the post of Male and Lady Members of the District Consumer Forum in the state of A.P. in pursuance of the orders passed in GO Ms.No.58 Consumer Affairs, Food and Civil Supplies (CS.III) Department dt.13-5-2005 as per the new inserted Rule 6-A of A.P.Consumer Protection Rules, 1987 and contrary to the Notification in Dis.No.4683/2004, dt.14-10-2004 as arbitrary, illegal and violative of UnderArticle 14 and 19 of the Constitution of India and consequently declare that the order passed in G.O.Ms.No.58 is not

applicable to the vacancies notified in the notification D.Dis.No.4683 dt.14-10-2004.

Counsel for the Petitioner: MR.P.KESHAVA RAO

Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following:

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No.15937 of 2005

ORDER: (Per JC,J)

The writ petition is filed with a prayer as follows:

> *"...to issue a writ declaring the action of the respondents in proposing to appoint/filling up vacancies to the post of Male and Lady Members of the District Consumer Forum in the State of A.P. in pursuance of the orders passed in G.O.Ms.No.58, Consumer Affairs, Food and Civil Supplies (CS.III) Dept. dt.13.5.2005 as per the new inserted Rule 6-A of A.P. Consumer Protection Rules, 1987 and contrary to the Notification in Dis.No.4683/2004 dt.14.10.2004 as arbitrary, illegal and violative of Under Article 14, and 19 of the Constitution of India and consequently declare that the order passed in GOMs.No.58 is not applicable to the vacancies notified in the notification D.Dis.No.4683 dt.14.10.2004..."*

The petitioner, who is a law graduate-a lady, complains that the stipulation made in the amended Rule 6A of the Andhra Pradesh Consumer Protection Rules, 1987 (for short "Rules") that the candidates competing for the post of a Member of a District Consumer Forum contemplated under Section 10 of the Consumer Protection Act, 1986 (for short "the Act") shall appear for a written test, is illegal and inapplicable insofar as those applicants who have already made applications for such a post pursuant to a notification issued by the second respondent on 14.10.2004 calling applications from the interested candidates, is concerned.

Under the provisions of the Act, various fora at the national level and state level are created for attending to the grievances of the consumers and protection of their rights. Section 9 of the Act contemplates the establishment of a Forum known as 'District Forum' in each district of the State. Such fora have already been established in the State of Andhra Pradesh and they are in existence for quite some time.

Section 10 of the Act provides for the composition of such District Forum. Under the said section, each District Forum is required to consist of a President, to be manned by a person, who is or has been or is qualified as a District Judge and also two other Members, one of whom is mandatorily required to be a woman. The qualifications required to be possessed by the persons who are to be appointed as the Members of the District Forum are that they should not be of the age of less than 35 years, possess a Bachelor Degree from a recognized university and should be persons of ability, integrity and standing and have adequate knowledge and experience of at least 10 years in dealing with the problems relating to economics, law, commerce, accountancy, industry and public affairs or administration.

It appears that prior to the amendment of Rule
6-A by the G.O.Ms.No.58, referred to earlier, this requirement of prospective candidates facing a written test was not mandated by the law.

The learned counsel for the petitioner
Sri P.Keshava Rao argued that in view of the amended Rule all the applicants who responded to the notification dated 14.10.2004 are now informed to face the written examination to be held on 24.07.2005. The learned counsel argued that such a requirement of facing a written examination insofar as the candidates whose cases are pending consideration pursuant to the notification dated 14.10.1994 is concerned is illegal as it would amount to stipulating a new condition with retrospective effect.

In support of his submission, the learned counsel Sri P.Keshava Rao placed reliance on a decision of the Supreme Court, reported in ***P.MAHENDRAN*** Vs.

STATE OF KARNATAKA, wherein the Supreme Court was dealing with a question of appointments to the posts of Motor Vehicle Inspectors in the State of Karnataka. The Rules provided for a minimum qualification to be holder of Diploma in Automobile Engineering or Mechanical Engineering. In the year 1978 the Karnataka Public Service Commission held selections and consequently 200 posts of Motor Vehicle Inspectors came to be filled from amongst the candidates holding Diploma in Mechanical Engineering and in Automobile Engineering. Once again in 1983, another notification was issued by the Karnataka Public Service Commission inviting applications for filling up 102 posts of Motor Vehicle Inspectors. The notification itself contained a clause indicating that the selections would be made on the basis of Recruitment Rules of Karnataka, 1976, wherein the requisite qualification was Diploma in Automobile Engineering or Diploma in Mechanical Engineering. During the said process, the State of Karnataka amended the Recruitment Rules by notification dated 08.05.1982, by which the qualification of Diploma in Mechanical Engineering was omitted as one of the qualifications for the post of Motor Vehicle Inspectors, thereby making the holders of Diploma in Automobile Engineers exclusively eligible for the appointment. Those candidates, whose cases could not be considered by virtue of the amended Rule, challenged the Amendment. It was in that context, the Supreme Court held that the eligibility criteria would not be changed during the pendency of the process of the selection. The case on hand, in our view, is totally different.

The eligibility criteria for being chosen as a Member of the District Consumer Forum is not changed and it continues to be the same either on the date of the notification dated 14.10.2004 or today, as is indicated in Section 10(1)(b)(iii). The impugned orders only prescribe the mode of assessing the eligibility. It appears that prior to the amended Rules, no specific mode of making such an assessment of the ability, integrity, knowledge or experience as contemplated under the above mentioned Rule was prescribed and in the absence of any such prescription, the procedure that was being followed was only an oral interview by which such an assessment was being made. Now by a statutory rule, the government prescribes that such an assessment must be made on the basis of the written examination, a very rational and transparent procedure with

laudable object. We have already indicated that the rule does not alter the eligibility criteria. In the circumstances, we do not see any merits in the writ petition.

The writ petition is dismissed at the admission stage.

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J.CHELAMESWAR, J.

Date: 21.07.2005.

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M.VENKATESWARA REDDY, J.

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To

1 Ex.Officio Secretary to Government, Consumer Affairs

Food and Civil Supplies (CS.II) Department, New Block,
Secretariat, Hyderabad.

2 The Registrar of A.P.State Consumer Disputes Redressal Commission,
Eruvaka Buildings, Khairatabad, Hyderabad.

3 Two CCs to the GP for the Civil Supplies High Court Buildings, Hyderabad.

4 Two CD Copies.